

§ 414.406 Implementation of programs.

(a) *Implementation contractor.* CMS designates one or more implementation contractors for the purpose of implementing this subpart.

(b) *Competitive bidding areas.* CMS designates through program instructions or by other means, such as the request for bids, each CBA in which a competitive bidding program may be implemented under this subpart.

(c) *Revisions to competitive bidding areas.* CMS may revise the CBAs designated under paragraph (b) of this section.

(d) *Competitively bid items.* CMS designates the items that are included in a competitive bidding program through program instructions or by other means.

(e) *Claims processing.* The Durable Medical Equipment Medicare Administrative Contractor designated to process DMEPOS claims for a particular geographic region also processes claims for items furnished under a competitive bidding program in the same geographic region.

[71 FR 48409, Aug. 18, 2006, as amended at 72 FR 18085, Apr. 10, 2007]

§ 414.408 Payment rules.

(a) *Payment basis.* (1) The payment basis for an item furnished under a competitive bidding program is 80 percent of the single payment amount calculated for the item under § 414.416 for the CBA in which the beneficiary maintains a permanent residence.

(2) If an item that is included in a competitive bidding program is furnished to a beneficiary who does not maintain a permanent residence in a CBA, the payment basis for the item is 80 percent of the lesser of the actual charge for the item, or the applicable fee schedule amount for the item, as determined under subpart C or subpart D.

(b) *No changes to the single payment amount.* The single payment amount calculated for each item under each competitive bidding program is paid for the duration of the competitive bidding program and will not be adjusted by any update factor.

(c) *Payment on an assignment-related basis.* Payment for an item furnished

under this subpart is made on an assignment-related basis.

(d) *Applicability of advanced beneficiary notice.* Implementation of a program in accordance with this subpart does not preclude the use of an advanced beneficiary notice.

(e) *Requirement to obtain competitively bid items from a contract supplier.* (1) *General rule.* Except as provided in paragraph (e)(2) of this section, all items that are included in a competitive bidding program must be furnished by a contract supplier for that program.

(2) *Exceptions.* (i) A grandfathered supplier may furnish a grandfathered item to a beneficiary in accordance with paragraph (j) of this section.

(ii) Medicare may make a secondary payment for an item furnished by a noncontract supplier that the beneficiary is required to use under his or her primary insurance policy. The provisions of this paragraph do not supersede Medicare secondary payer statutory and regulatory provisions, including the Medicare secondary payment rules located in §§ 411.32 and 411.33 of this subchapter, and payment will be calculated in accordance with those rules.

(iii) If a beneficiary is outside of the CBA in which he or she maintains a permanent residence, he or she may obtain an item from a—

(A) Contract supplier, if the beneficiary obtains the item in another CBA and the item is included in the competitive bidding program for that CBA; or

(B) Supplier with a valid Medicare billing number, if the beneficiary obtains the item in an area that is not a CBA, or if the beneficiary obtains the item in another CBA but the item is not included in the competitive bidding program for that CBA.

(iv) A physician, treating practitioner, physical therapist in private practice, occupational therapist in private practice, or hospital may furnish an item in accordance with § 414.404(b) of this subpart.

(3) Unless paragraph (e)(2) of this section applies:

(i) Medicare will not make payment for an item furnished in violation of paragraph (e)(1) of this section, and